FEDERAL ELECTION COMMISSION				
Lumr !	BEFORE THE FEDERAL ELECTION COMMISSION			
2009 DEC 1	7 AM 9: 32			
3)			
CEIn the Matter of				
6	MUR 6155 CASE CLOSURE UNDER THE			
7	HILLARY CLINTON FOR PRESIDENT,) ENFORCEMENT PRIORITY			
8	AND SHELLY MOSKWA, AS TREASURER) SYSTEM			
9)			
10 11	GENERAL COUNSEL'S REPORT			
12	GENERAL COUNDED DIEGONA			
13	Under the Enforcement Priority System, matters that are low-rated			
14				
15	are forwarded to the Commission with a recommendation for dismissal. The			
16	Commission has determined that pursuing low-rated matters, compared to other higher-rated			
17	matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to			
18	dismiss these cases. The Office of General Counsel scored MUR 6155 as a low-rated matter.			
19	The complainant in this matter, Michael Reznik, asserts he did not receive a refund of			
20	his \$2,300 general election contribution to the Hillary Clinton for President Committee ("the			
21	Committee"). Specifically, the complainant claims that the Committee and Shelly Moskwa,			
22	in her official capacity as treasurer, violated the Federal Election Campaign Act of 1971, as			
23	amended ("the Act"), when then-Senator Clinton did not receive the Democratic nomination			
24	for president and, thereafter, failed to refund his general election contribution pursuant to			
25	11 C.F.R.102.9(e)(3). The complainant states that "Mrs. Clinton [sic] campaign mailed the			
26	refund of the general [election] contribution on August 28, 2008," presumably based on the			
27	complainant's review of the Committee's financial disclosure reports. After a few weeks,			
28	according to the complainant, he telephoned the Clinton campaign and spoke to "John" and			

¹ 11 C.F.R. 102.9(d) states "If a candidate is not a candidate in the general election, any contributions made for the general election shall be refunded to the contributors...." (with certain exceptions not relevant here).

emails.

1 "Monica," informing them that he had not received his refund check. When they responded
2 that the refund check had been mailed and cashed, the complainant advised them that the
3 check was mailed to the wrong address and had not been deposited to his bank account. The
4 complainant maintains that he was promised the incident would be investigated and that a
5 new check would be delivered to what he characterizes as "the correct address," He asserts,
6 however, that during the sixty days subsequent to his telephone call, he received no further
7 response from the Clinton campaign, despite making numerous telephone calls and sending

The Committee responds that, after receiving the complaint, it reviewed its bank records and confirmed that a refund check was cashed after it was mailed to the complainant's "address of record" on August 28, 2008, which the Committee believes is the address of the complainant's former employer. In addition to disclosing complainant's refund on its financial disclosure report, the Committee also attached a copy of the endorsed check to its response. After receiving the complaint, the Committee reports that it conducted an internal review of records pertaining to contributions from other individuals associated with the same address, and determined that four additional contributions to the then-Senator's general election campaign were also refunded on August 28, 2008. As a result of its internal review, the Committee concludes that it is possible, "although not definitive," that three of the four contributions may have been endorsed and deposited by an individual other than the contributor.

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	The Committee takes the position that it complied with its refund obligations, as set
	forth in the Act and underlying regulations. The Committee explains that it had had no
	reason to believe that there were any issues concerning the contributions when it initially
	accepted them. Thus, the Committee has determined not to issue additional refund checks in
	this matter, since "such action would cause the Committee to have refunded the same
	contribution(s) twice."
	It light of the amount at issue in this matter, coupled with the assertion that the
	Committee sent the refund to the "address of record," and in furtherance of the
Commission's priorities and resources, relative to other matters pending on the Enforcement	
docket, the Office of General Counsel believes that the Commission should exercise its	
	prosecutorial discretion and dismiss the matter. ² See Heckler v. Chaney, 470 U.S. 821
	(1985).
	RECOMMENDATIONS
	The Office of General Counsel recommends that the Commission dismiss MUR 6155;
	close the file;
	and approve the appropriate
	letters.

² In light of our recommendation to dismiss this matter, we are not making a recommendation concerning whether the initial refund attempt was timely under the Federal Election Campaign Act of 1971, as amended.

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